

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

-
-

WRIT PETITION NO.11934 of 2004

27th February 2007

Between:

1. Smt.Ameetunnisa Begum, W/o.Late Moqbool, 64 years,
R/o.Visakhapatnam.

And one other.

...PETITIONERS

AND

1. The State of A.P., rep.by the Revenue Divisional Officer,
Visakhapatnam.

And one other.

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

-

-

WRIT PETITION NO.11934 of 2004

-

ORDER: (Per the Hon'ble Mr Justice B.Prakash Rao)

The petitioners, who have declared as land grabbers, filed this Writ Petition, *inter alia*, seeking a Writ of Certiorari assailing the order dated 19.04.2004 in L.G.C.No.47 of 1989 on the file of the Special Court under A.P. Land Grabbing (Prohibition) Act, Hyderabad only in regard to the fixation of quantum for payment of compensation by them in respect of the land alleged to have been grabbed.

Heard Sri V.L.N.G.K.Murthy, learned counsel, appearing on behalf of the petitioners and the learned Government Pleader for Revenue (Assignment) appearing on behalf of the respondents.

The facts, in brief, which are necessary for disposal of this Writ Petition, are that in the application filed by the respondents under the provisions of Section 8 of the A.P. Land Grabbing (Prohibition) Act, 1982, they sought that the petitioners be declared as land grabbers.

After contest and ultimately, after undergoing various other chequered events, including filing a Writ Petition to this Court, the petitioners were declared to be the land grabbers.

There is no serious dispute in regard to the said finding on merits and therefore, we are not going into the claim as to the right, title or interest in respect of the said land from both the sides. The only grievance of the petitioners is that subsequent to they being declared as land grabbers, there was a direction to fix the market value as compensation to be paid by the petitioners for the purpose of evicting the said land in respect of which, they have been declared as land grabbers. Therefore, a regular enquiry has been conducted and both the sides let in their evidence. Ultimately, the Court below, without accepting the evidence, both oral and documentary and other material as filed from both the sides, sought to fix the market rate at Rs.200/- (Rupees two hundred only) per square yard on the basis of the statement alleged to have given by the Revenue Divisional Officer. Hence, this Writ Petition.

Learned counsel for the petitioners strenuously contended that even though the petitioners have filed Ex.B1 to B12 apart from examining the oral evidence, nothing has been considered in proper

perspective and instead, the Tribunal below sought to rely on the statement of the Revenue Divisional Officer, which has not been duly produced in evidence nor marked properly. Therefore, it cannot constitute any basis as such for determination of the market rate. Even otherwise, having regard to the evidence available on record, there is other credence, which could have been objected rather than relying on the unproved statement of the Revenue Divisional Officer.

Learned Government Pleader contended that having rejected the documents, Exs.B10 to B12, necessarily, the Tribunal below rightly has to place reliance on the statement of the Revenue Divisional Officer, which reflects the correct market value.

On consideration of the submissions made on either side and on perusal of the material available on record, the only question that arises for consideration is as to whether under the facts and circumstances, what could be the compensation and quantum thereof in making payment in respect of the land for the purpose of evicting after they being declared as land grabbers.

Straight away coming to the material on record, except examining the Mandal Revenue Officer on behalf of the respondents

herein, no other material is forthcoming nor there is any positive assessment as sought to be reflected from his statement as P.W.2. On behalf of the petitioners, R.Ws.1 to 5 were examined and three documents were marked, namely Exs.B10 to B12. Ex.B10 is the registration extract pertaining to the allotment of land by way of sale by the A.P.I.I.C on 31.03.1996 at Rs.122.90 (Rupees one hundred and twenty two and paise ninety only) per square yard. The Court below did not accept this on the ground that the said allotment is at a later stage to the relevant date in the given case. It is needless to mention that in this case, the final orders were passed on 30.04.1998. Therefore, necessarily, the rate has to be determined since the aforesaid document is much later. The Court below rightly did not place any reliance. Coming to the other document, Ex.B11 dated 02.03.1994, which is a sale transaction between two private parties of an extent of 300 square yards sold for Rs.36,000/- (Rupees thirty six only) at the rate of Rs.120/- (Rupees one hundred and twenty only) per square yard. This document was not found favour by the Court below. However, the third and last document is Ex.B12, which is the Market Value Certificate issued by the Sub-Registrar, Gajuwaka, where the market value of the land for the relevant period from 31.03.1991 to

31.08.1993 is Rs.2,50,000/- (Rupees two lakh fifty thousand only) which works out to Rs.51.65 ps (Rupees fifty one and paise sixty five only) per square yard. As per this document, there is absolutely no reason as to why the said document is to be rejected. In fact, it is this very value, which is being sought to be placed reliance by the authorities for the purpose of executing sale deed at the relevant point of time in respect of the said lands. Therefore, in the absence of any other material forthcoming on behalf of the respondents herein and there being no serious challenge in regard to Ex.B12, since on verification, it is found from the evidence of P.W.2 that there is no suggestion as to its correctness nor the Mandal Revenue Officer, who has been examined by the respondents, did say anything against the said document, therefore, the said document can safely form part for assailing market value for compensation.

Further, it is curious to note that the Court below sought to place reliance on the statement made by the Revenue Divisional Officer. Neither the said Revenue Divisional Officer has been examined nor he was produced in the witness box nor his statement was marked. Either way, the said document is not proved. Even the Mandal

Revenue Officer does not say anything about the statement nor could he say anything especially any answer or other as such. Therefore, in the absence of proper pursue as required under the law, the said statement cannot form piece of evidence nor can be accepted. In the circumstances, by placing reliance on Ex.B12, we hold the market value at Rs.51.65 ps (Rupees fifty one and paise sixty five only) per square yard in respect of the land in question i.e. 3312 square yards, the total of which comes to Rs.1,71,064.80 ps (Rupees one lakh seventy one thousand and sixty four and paise eighty only) (Rs.51.65 ps X 3312 square yards).

The Writ Petition is accordingly allowed holding that the market value, which has to be paid by the petitioners as compensation, shall be Rs.1,71,064.80 ps (Rupees one lakh seventy one thousand and sixty four and paise eighty only). The petitioners shall make deposit of the said amount within a period of two months from today. No costs.

(B.PRAKASH RAO, J)

(M.VENKATESWARA REDDY, J)

27th February 2007
RRB

-